



PREPROPOSAL STATEMENT OF INQUIRY

(RCW 34.05.310)

CR-101

Do **NOT** use for expedited rule making

Agency: Department of Ecology A.O. # 02-16

Subject of possible rule making:

Amendment and/or partial repeal of the Instream Resources Protection Program for the Main Stem Columbia River in Washington State (Chapter 173-563 WAC) and the Water Resources Program for the John Day-McNary Pools Reach of the Columbia River (Chapter 173-531A WAC). This Preproposal Statement of Inquiry replaces a previous CR-101 filed by the Department of Ecology on July 31, 2001.

(a) Statutes authorizing the agency to adopt rules on this subject:

RCW 90.03; RCW 90.22; RCW 90.54; RCW 43.21A; RCW 43.27A

(b) Reasons why rules on this subject may be needed and what they might accomplish:

The competition for water from the Columbia River continues to escalate. There are hundreds of pending applications in Washington for new water rights from the Columbia, and there is little agreement on the effects of off-stream water use on salmon recovery. Symptoms of increasing frustration include the number of court cases that have been filed to address these issues. The department has twice been petitioned to initiate a rulemaking for the Columbia River: first by the Center for Environmental Law and Policy, American Rivers, the National Wildlife Federation, and the Pacific Fisheries Council; and, more recently, by the Columbia Snake River Irrigator's Association, the City of Brewster, State Senators Pat Hale, Mike Hewitt, Jim Honeyford, Bob Morton, Linda Evans Parlette, and Jim West and State Representatives Mike Armstrong, Bruce Chandler, Jerome Delvin, Bill Grant, Dave Mastin, Cathy McMorris, Mark Schoesler, and Bob Sump. In light of these petitions and recognizing that rule making will be a necessary outcome of the Columbia River Regional Initiative, a rule governing an integrated state water management program for the river's water resources is needed.

(c) Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

No other state or federal agencies have authority to process water right applications.

(d) Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study
- ☒ Other (describe)

The state has contracted with the National Academy of Sciences – National Research Council to conduct a review of related scientific issues. An examination of the economics of water use in the Columbia Basin will also be conducted. Affected and interested groups will be involved early in the process of developing water resources management alternatives and shaping proposed rule language prior to the formal public process required by the Administrative Procedures Act. Electronic media will be used to facilitate communication during the rulemaking process. In addition, Ecology will hold public workshops during the early development of the rule and public hearings on the formal rule proposal.

(e) How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Contact Gerry O'Keefe (Department Headquarters in Lacey) at (360) 407-6640 or goke461@ecy.wa.gov

Ecology expects to hold several public meetings/workshops on preliminary drafts of the rule; and also will hold formal public hearings on the CR-102 rule proposal in each county in which waters relating to the rule are located.

NAME (TYPE OR PRINT)
Tom Fitzsimmons

SIGNATURE

TITLE
Director

DATE
10/23/02

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